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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

IN RE

BILLY BOYCE BATY

DEBTOR

) Case No. 12-02870-8-JRL  
)  
) Chapter 11  
)  
)  
)

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**OBJECTION TO CONFIRMATION OF SECOND AMENDED CHAPTER 11 PLAN**

NOW COMES Bank of America, N.A. (hereinafter "Creditor"), in response to the Debtor's Disclosure Statement and Chapter 11 Plan filed Billy Boyce Baty. (hereinafter "Debtor"), and hereby objects and in support thereof respectfully shows as follows:

**PARTIES AND JURISDICTION**

1. The Debtor initiated the above captioned case under Chapter 11 of the U.S. Code (herein, the "Code") on or about April 13, 2012.
2. The Debtor filed a Chapter 11 Disclosure Statement (herein, the "Disclosure Statement") and Plan of Reorganization (herein, the Plan") on July 2, 2012. September 4, 2012 has been fixed by the Court as the last day to file responses to the Plan.
3. The Court has jurisdiction over this proceeding, pursuant to 28 U.S.C. § 1334, and the "Referral Order" entered herein by the Chief United States District Court Judge for the Eastern District of North Carolina District of North Carolina. The Court also has jurisdiction over this proceeding, pursuant to 28 U.S.C. §§ 151 and 157(b) in that it is a "core proceeding."

**ALLEGATIONS**

4. Creditor holds a secured claim against the Debtor based upon a certain Note dated December 22, 2003 in the original principal balance of \$77,000.00. As security for the Note, Debtor executed a certain Deed of Trust thereby granting a lien or encumbrance on the real property as described therein and known as 7602 Huey Court, Raleigh, NC 27615 (herein, the "Real Property"). On December 22, 2003, the foregoing Deed of Trust was properly filed with the Register of Deeds of Wake County, North Carolina. Movant is the current owner and holder of the Note and Deed of Trust.

5. The Disclosure Statement and Plan filed by the Debtor places the claim of Creditor in Class IV and proposes the following plan treatment:

Bank of America Home Loans holds a deed of trust in the amount of approximately \$75,000.00. The secured portion of this debt is \$75,000.00. Amortized over thirty years at 5.25% rate of interest, the debtor will pay \$415.00 per month beginning on January 1, 2013. This loan shall be deemed current and will conclude on January 1, 2043.

6. The basis for Creditors objection is as follows: The Plan modifies the rights of creditor

without creditor's consent. The Proof of Claim filed in this case indicates an unpaid secured balance of \$91,678.31 and a current interest rate on the account of 6.875%. Further, the terms of the Plan are unclear as to the treatment of any post-petition interest, fees, costs, or advances. In addition, the terms of the Disclosure Statement and Plan do not demonstrate that the Plan is feasible.

7. Creditor hereby gives notice that it may submit a declaration or affidavit regarding any issue(s) raised in this contested matter in accordance with Rules 803(6), 902(11), and 902(12) of the Federal Rules of Evidence.

WHEREFORE, Creditor prays the Court as follows:

1. That the Court deny confirmation of the Plan;
2. That Creditor be allowed its reasonable attorneys' fees to the extent allowed under 11 U.S.C. § 506(b); and
3. That Creditor have such other and further relief as to the Court may deem just and proper.

Dated: November 21, 2012

Rogers Townsend & Thomas, PC  
Attorneys for Bank of America, N.A.

By: /s/ Neil D. Jonas  
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**CERTIFICATE OF SERVICE**

I, as attorney of record for Bank of America, N.A., hereby certify that on the November 21, 2012, I served a copy of the Objection to Confirmation by either electronic notice in accordance with the local rules or by depositing the same, enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service, said envelope being addressed as follows:

Billy Boyce Baty  
100 Woods Ream Drive  
Raleigh, NC 27615

Debtor

Travis Sasser  
VIA ECF

Attorney for the Debtor

Rogers Townsend & Thomas, PC  
Attorneys for Bank of America, N.A.

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